

REMARKS

Claims 102-109, 111, 112 and 122-129 are pending, of which claims 102 and 122 are in independent form.

Claims 102 and 122 stand currently amended by way of this response.

No new matter is added hereby.

Favorable reconsideration of the present patent application as currently constituted is respectfully requested.

Regarding the Double Patenting Rejections

Based on the comments provided at paragraph 3 under the section "Response to Arguments" of the Office Action, it appears that claims 102-109, 111-118 and 120-129 continue to be rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-50 of U.S. Patent No. 7,386,588 (the '588 patent). Without necessarily acquiescing in the characterization provided in the Office Action with respect to the pending claims, allegedly conflicting claims of the '588 patent, or both, Applicant is submitting herewith a suitable terminal disclaimer in accordance with 37 C.F.R. §1.321. Accordingly, it is believed that the pending double patenting rejections have been overcome hereby.

Regarding the Claim Rejections - 35 U.S.C. §103

Claims 102-104, 106-113, 115-122 and 124-129 stand rejected under 35 U.S.C. §103(a) over the combination of AirMobile Wireless Communication Client for cc:Mail User Guide Version 1.0, Communication Client Guide, 1995 (hereinafter *AirMobile*) and U.S. Patent No. 5,764,899 to Eggleston et al. (hereinafter *Eggleston*). In addition, claims 105 and 123 are rejected under 35 U.S.C. §103(a) over the combination of *AirMobile* and *Eggleston* in view of U.S. Patent No. 6,289,105 to Murota (hereinafter *Murota*).

The Office Action has commented as follows with respect to the pending base claims in connection with the §103(a) rejections:

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While *AirMobile* discloses the invention substantially as claimed, it fails to specifically disclose that the user data items are "continuously redirected", regardless of the availability of the wireless device.

Eggleston discloses a similar system for redirecting messages to a wireless device. *Eggleston* teaches continuously redirecting data items via a virtual session and identifies the procedure for removing a client from active status and stop attempting to deliver data as a process that is "preferably included in the VSM" (col. 7, ll. 37-40). **A preferable feature is not required, and one of ordinary**

skill in the art would have understood Eggleston's disclosure to mean that the system properly operate, albeit less efficiently, with this feature removed. Therefore, Eggleston at least suggests a system where messages are continuously forwarded, regardless of the availability of the client device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to continuously forward the data items to the mobile device, regardless of the device's availability, to ensure the client will be immediately notified of outbound data upon its return to availability, without requiring the device to login again (Eggleston; col. 7, ll. 37-58). (Emphasis added)

Applicant respectfully traverses the foregoing §103 rejections and submits the following discussion as support. Whereas a preferable feature may not be required, removal of the feature in question with respect to the system disclosed in *Eggleston* renders the system inoperable instead of transforming the system into a system where the messages are "continuously redirected" as claimed by Applicant. If a client in *Eggleston* is kept in an active state regardless of the availability of the client as suggested in the Office Action's comments, while the VSM may attempt to forward the messages to the client's last known address, such an attempt fails because the client is no longer capable of receiving the messages (e.g., the client has left a coverage area, or the user has turned off the client

device's modem or processor). That is, the system has actually become non-functional for the purpose of delivering messages to the client device. Furthermore, such a process cannot continuously take place in *Eggleston* at any rate because of the acknowledgement-based feedback signaling process explicitly taught in *Eggleston*. As set forth in the flowchart of FIG. 3, the acknowledgement-based feedback signaling process involves the host server, VSM and the mobile station's client such that an acknowledgement that a message forwarded by the VSM has been received by the client is relayed back to the VSM (steps 323, 324, 325), whereby the virtual session timers are appropriately updated (steps 327, 328, 333, 334) for continuing with the data exchange. If no such acknowledgements are received back by the VSM, the process stops and there will not be any further data exchange. In other words, while the VSM may attempt to forward the messages regardless of the availability of the client, the inherent design requirement of the *Eggleston* system necessarily prevents such a scenario from occurring. As a consequence, the *Eggleston* system cannot "continuously forward" the email messages to the client regardless of its availability.

At least for the foregoing reasons, Applicant respectfully submits that the cumulative teachings of *AirMobile* and *Eggleston*

fail to teach or suggest all the limitations of base claims 102 and 122 as currently constituted. Reliance on the remaining tertiary reference, i.e., *Murota*, is also of no avail since it fails to cure the cumulative deficiencies of the *AirMobile* and *Eggleston* references.

It is therefore believed that all pending claims of the present patent application as currently constituted are patentably distinguishable over the applied art of record.

Reservation of Rights

Notwithstanding the foregoing, Applicant reserves all rights not exercised in connection with this response, such as, e.g., the right to challenge or rebut any tacit or explicit characterization of any reference, the present claims and/or Applicant's prior responses, the right to challenge any Official Notice(s) taken, the right to challenge or rebut any asserted factual or legal basis of any of the rejections of the present Office Action, the right to swear behind any cited reference such as provided under 37 C.F.R. §1.131 or otherwise, the right to present a showing of secondary considerations in the instant application by way of one or more supplemental submissions under 37 C.F.R. §1.132, or any and all other rights and remedies available under the Patent Statute.

Fee Statement

Compared to the highest number previously paid for, the total number of claims and the number of independent claims have not increased. No petition for an extension of the reply period is being made. Applicant is filing herewith a Request for Continued Examination (RCE) of the instant patent application and a Terminal Disclaimer. Accordingly, payment via electronic filing is being authorized in the applicable amount. Applicant believes no additional fees are due for the filing of this Submission. If any additional fees are due or any overpayments have been made, however, please charge or credit our deposit account (Deposit Account No. 03-1130.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of the record, whether considered alone or in combination discloses, anticipates or suggests the present embodiments, as now defined by the independent claims, and in further view of the above amendments and/or remarks, reconsideration of the Action and allowance of the present patent application are respectfully requested and are believed to be appropriate.

Respectfully submitted,

Date: September 27, 2011

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